of March 1894

BILL. [1894.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

SHORT TITLE.

1. This Act may be cited as *The Dominion Irrigation Act*, and shall apply to and be in force throughout the North-west Territories.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—

(*a.*) The expression "Minister" means the Minister of the Interior;

(*b.*) The expression "agent" means the Registrar of the Lands Registration District in which the land or water are situated.

(*c.*) The expression "Dominion Land Surveyor" means a surveyor duly authorized, under the provisions of *The Dominion Lands Act*, to survey Dominion lands;

(*d.*) The expression "company" means any incorporated company, the objects and powers of which extend to or include the construction or operation of irrigation or other works under this Act or the carrying on thereunder of the business of the supply or the sale of water for irrigation or other purposes and includes also any person who has been authorized or has applied or is about to apply for authority to construct and operate such works or carry on such business.

(*e.*) The expression "duty of water" means the area of land that a unit of water will irrigate, which unit in this Act is a volume or amount equal to the discharge of one cubic foot of water per second.

3. The right to the use of all water at any time in any river, stream, watercourse, lake, creek, ravine, cañon, lagoon, swamp or marsh shall, for the purposes of this Act, in every case be deemed to be vested in the Crown until the contrary be proved by establishing any other right than that of the Crown to the use of such water, and save in the exercise of any legal right existing at the time of such diversion or appropriation no person shall divert or appropriate any water from any river, stream, watercourse, lake, creek, ravine, canon, lagoon, swamp or marsh excepting under the provisions of this Act or of some Act (*already or*) hereafter to be passed except in the services of the general right of all persons to use water for domestic purposes from any river, stream, watercourse, lake, creek, ravine, canon, lagoon, swamp or marsh vested in the Crown and to which there is access by a public road or reserve.

Does this abolish riparian rights

Does this abolish riparian rights in all future grants from the Crown?

4. After the passing of this Act no right to the permanent diversion or to the exclusive use of the water in any river, stream, watercourse, lake, creek, ravine, canon, lagoon, swamp or marsh shall be acquired by any riparian owner or any other person by length of use or otherwise than as the same may be acquired or conferred under the provisions of this Act or (*some existing or*) future Act of Parliament.

Does this abolish riparian rights in all future grants from the Crown?

5. Any person or company who holds water rights of a class similar to those which may be acquired under this Act or who with or without authority has constructed or is operating works for the utilization of water shall obtain a license or authorization under this Act within twelve months from the date of the passing of this Act. If such license or authorization is obtained within the time limited, the exercise of such rights may thereafter be continued and such works may be carried on under the provisions of this Act, otherwise the same shall be deemed to be unauthorized and unlawful.

6. Any water the property in which is vested in the Crown may be acquired, for domestic, irrigation, or other purposes, without regard to deterioration in quality or diminution in quantity, upon application therefor as hereinafter provided, and all applications made in accordance with the provisions of this Act shall have precedence, according to the date of filing the same with the agent, if for the same purpose but not otherwise. The purposes for which the right to water may be acquired are of three classes, namely: First, domestic purposes, which shall be taken to mean water for household and sanitary purposes and watering stock; second, irrigation purposes; and, third, other purposes.

Applications shall have precedence in this order irrespective of the date of filing, so that all applications for domestic purposes shall have precedence of all those for irrigation and other purposes, and all applications for irrigation purposes shall have precedence of all those for purposes within the third class.

Provided that no application for any purpose shall be granted where the proposed use of the water would deprive any person owning lands adjoining the river, stream, lake or other source of supply of whatever water he requires for domestic purposes, and that when any person abandons or ceases to use any waters acquired by him for the purposes for which the same were acquired, or wastes the same, his right shall cease.

It is desired that this clause can in no way prejudice the rights of riparian owners

APPLICANT MUST FILE APPLICATION WITH GOVERNMENT.

7. Every applicant for a license or authorization under this Act shall file with the Minister and the agent, a memorial, setting forth his name, or, if the applicant be an incorporated company, the names of its shareholders and their places of residence, the date and manner of its incorporation, the names of its directors and officers and their places of residence, the extent of the company's subscribed capital and amount of paid up capital, the proposed method of raising further funds, if needed, and the purposes for which the company is incorporated. The memorial shall also state the name of any river, stream or other waters from which water is to be diverted, the extent of settlement on such waters, the probable quantity of water to be used and the point of diversion, the dams, basins, reservoirs, or other works proposed to be constructed for the purposes of the undertaking, and the locality of the same, as near as may be; the purpose to which the said water to be used is to be applied; the proposed rate to be charged for water; the probable number of consumers, the probable quantity of ~~water~~ land that may be beneficially irrigated, the character, description and value of such land in its present state including improvements and such other and further particulars as are needful to a full understanding of the scheme and as may be required by the Minister. And attached to the memorial shall be a general map or plan on a scale of not less than half a mile to one inch, showing the tract to be served by such water, the location of all rivers, streams and other waters therein, and the probable location of the proposed works. And also the position and area of all ponds, reservoirs or basins of water intended to be created for the purpose of storing water or which may have the effect of impounding water.

(*a.*) There shall also be filed with the memorial of all ditches or canals plans in detail of all bridges or culverts necessary for

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road or farm crossings also of flumes and headworks, this plan to be on a scale of not less than one inch equal to four feet.

(*b.*) In the case of all ditches or canals carrying more than 25 cubic feet of water per second in addition to the above information the applicants shall furnish the following maps or plans.

(1.) A longitudinal profile plan of ditch, showing the bottom of the same and proposed surface water line of same. The scale of this plan to be not less than, horizontal, one inch equal to 400 feet, vertical, one inch equal to 20 feet.

(2.) Cross section plans at a sufficient number of points to illustrate all the different forms the ditch when constructed will take, particularly on side hills or elsewhere when any portion of the water intended to be carried, is conveyed in fill, that is, one or both banks are made ground, or in case of when in cut, a horizontal line drawn from the bottom of the ditch will intersect the surface of the ground within double the number of feet that the bottom width of the ditch is at that point and the scale of the said cross section plans to be not less than one inch to twenty feet, for both horizontal and vertical scales.

(*c.*) Plans of any dams, cribs, embankments or other works proposed to obstruct any river, stream, lake or other waters or in order to create a pond, reservoir or basin of water anywhere or which may have the effect of impounding water, shall be prepared on a longitudinal scale of not less than one inch to one hundred feet and for cross sections, on a scale of not less than one inch equal to twenty feet and should show what material is intended to be used and how placed in said dam. Any timber, brush, stone or brick used in those works, shall be shown in detail on a plan not less than one inch equal to four feet.

(*d.*) Cross section maps or plans must also be filed with said memorial, showing the surface of the ground under such pond, reservoir or basin of water and also the surface of the water proposed to be held or impounded in the same; the scales of said maps or plans shall be not less: horizontal scale one inch equal to one hundred feet; vertical scale one inch equal to twenty feet, and a sufficient number of such lines of levels shown, so that the contents of said pond, reservoir or basins of water, can be accurately determined. If said maps or plans show the levels by contour lines, they shall be on a scale sufficiently large, so that said contour lines, shewing a vertical distance between them not exceeding one foot, can be accurately determined. The said maps or plans shall have sufficient information to show clearly the property likely to be affected by the creation of such ponds, reservoirs or basins of water and the manner in which affected and shall show in detail such other particulars as the Minister or Governor in Council may see fit to order.

(e)

8. No material deviation shall be made from the plans filed without permission and upon any question arising as to whether any deviation is material or otherwise the same shall be decided by the Minister or such officer as he may designate.

GOVERNMENT TO GIVE PUBLIC NOTICE OF APPLICATION AND RECEIVE OBJECTIONS.

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11. The memorial and maps or plans shall be made in duplicate and signed by the applicant, or, if the applicant be a company, by the executive officers thereof, such of the maps or plans as are intended to show the land to be affected by the works being signed also by a Dominion Land Surveyor, and shall be filed one copy with the Minister and the second copy with the agent, and the same or a copy thereof shall be open for examination by the public at all times in the Department of the Interior at Ottawa, and at the office of the agent. Public notice of such filing shall forthwith be given in the *Canada Gazette* and in some newspaper published in the neighbourhood of the proposed works and to be named by the [redacted] agent, for a period of not less than thirty days nor more than ninety days as the Minister may determine, within which time any and all objections to the proposed works shall be forwarded to the Minister. The Minister shall consider all objections filed and report thereon to the Governor in Council who may thereupon by Order in Council authorize the construction of said works with such changes or variations as may be deemed necessary.

(2.) Any headworks, dams, cribs, embankments, flumes or other works authorized under this Act shall if the Minister so determines be constructed subject to inspection during construction from time to time and on completion and at any time thereafter, by an officer to be named by the Minister and the cost of such inspection or such portion thereof as the Minister may decide shall be borne by the company constructing such works.

(3.) Should any person residing on or owning land in the neighbourhood of such works apply to the Minister in writing desiring an inspection of any dams, cribs, embankments or other works in course of construction or at any time after the completion thereof the Minister may order an inspection thereof.

(4.) The Minister may require the applicant for inspection to make a deposit of such sum of money as the Minister may think necessary to pay the expenses of an inspection, and in case the application appears to him not to have been justified may cause the whole or part of the expenses to be paid out of such deposit.

(5.) In case the company is required by the Minister to pay the expenses of an inspection or any part thereof, such payment may be enforced as a debt due Her Majesty.

AUTHORIZATION TO BE PUBLISHED.

9. No work shall be commenced until the approval of the Governor in Council has been signified by public notice in the *Canada Gazette* and some newspaper published in the neighbourhood of the proposed works and named by the Minister, which notice shall set forth the particulars mentioned in the memorial, with such changes or variations as the Governor in Council may see fit to order, and shall specify a time within which such works shall be completed. Such notice shall be published in not less than two successive issues of such newspaper and shall be the authority for proceeding with the work. A copy of the notice shall also be recorded in a book specially kept for that purpose by the [redacted] agent in the [redacted] office for his district, and this record shall remain open for public inspection. If either the lands on which the water is to be applied or the waters to be used therefor, are not confined to the territory assigned to any one agent, a record must be filed with each agent in whose territory any part thereof is situate.

WHEN COMPANIES TO BEGIN AND FINISH WORK.

10. The operations of the company constructing a work so authorized shall begin not later than two months after the last publication of such last-mentioned notice, unless such two months expire between the first day of November and the first day of May following, in which case the time of commencement shall not be later than the first day of May following, and shall proceed continuously until sufficiently completed to supply water to all applicants within the area described in the authorization, provided there is sufficient water available for that purpose. The Minister or such officer as he may designate, shall be the sole arbiter as to whether the work is being prosecuted with sufficient vigour. Should any unforeseen disaster from flood or stress of weather intervene, to prevent the construction or completion of the works within the time limited, or for any other reasons which he deems sufficient, the Governor in Council may authorize a reasonable extension of time for the commencement or completion of the works. Upon failure to complete the works within the time limited or any extension thereof, the company shall forfeit to Her Majesty all rights granted to it under this Act, and any works at the date of such forfeiture constructed or acquired by it may be expropriated in the manner hereinafter mentioned by any other company which may be authorized to execute similar [redacted] covering the same territory.

11. Every company and the officers and directors thereof shall afford to any inspecting officer such information as is within their knowledge and power in all matters inquired into by him, and shall submit to such inspecting officer all plans, specifications, drawings and documents relating to the construction, repair or state of repairs of the works or any portion thereof.

1. The production of instructions in writing signed by the Minister or his Deputy or the Secretary of the Department of the Interior, shall be sufficient evidence of the authority of such inspecting officer.

2. Every person who wilfully obtructs any inspecting officer in the execution of his duty is liable on summary conviction, to a penalty not exceeding dollars, or to imprisonment for a term not exceeding with or without hard labour or to both.

RIGHT-OF-WAY, DAMAGES, ETC.

12. A company contemplating or projecting any work which may be authorized under this Act, may enter into and upon any public or private lands, railway, streets, roads or lanes, to take levels, make surveys or do other necessary work in connection with the location of their proposed works through or across the same without making compensation therefor or being guilty of trespass, but all such preliminary work shall be disposed of with reasonable expedition and in a manner not to unduly interfere with the rights of the public or of the owners or occupiers of such property.

13. When the company and the owners or occupiers of private lands cannot agree as to the compensation for lands required for the construction or maintenance of any work authorized under this Act, or for damages to lands injured by such construction or maintenance, the matter shall be settled in the same manner as is provided for obtaining title and fixing compensation under *The Railway Act* so far as the same may be applicable, the Minister of the Interior and the Department of the Interior being substituted for the Minister of Railways and Canals and the Department of Railways and Canals respectively wherever in the provisions of the said Act the latter Minister and Department are mentioned or referred to. Provided that the Governor in Council may from time to time by regulations vary or modify the provisions of the said Act in this regard, so far as they apply to works under this Act, in such manner as experience may prove to be expedient.

In this section the expression "lands" includes real property, messuages, lands, tenements and hereditaments of any tenure.

14. All maps, plans and works of reference shewing the lands required by the company for any purpose in connection with the construction or maintenance, of its works must be signed by a duly qualified Dominion Land Surveyor.

15. The Minister or such officer as he may designate in case of dispute shall be the sole arbiter as to the area of land which may be taken by the company without the consent of the owner for any purpose in the construction and maintenance of its works.

OFFENCES.

16. Every person who interrupts, molests or hinders in his work any engineer or Dominion Land Surveyor engaged in making surveys, or levels or in other operations in connection with any work authorized under this Act, is guilty of an offence, and liable on summary conviction to a penalty not exceeding twenty dollars or to imprisonment for a term not exceeding two months or both.

SURPLUS WATER TO BE TURNED BACK.

17. No company authorized to divert the water of any river, stream, lake or other waters shall divert more water than the quantity actually required for the purpose authorized, and any company or officer or employee of the same, so doing, shall be guilty of an offence punishable on summary conviction by a fine not exceeding $5.00 per day for each unit or fraction of a unit of water so diverted.

18. When any company abandons or ceases to use any waters acquired by it for the purposes for which the same were acquired or wastes the same, and any charge of such abandonment, wasting or ceasing to use water, is made to the Minister, the same may be enquired into by him or by any person or officer appointed by him for that purpose, and the Minister shall submit his report upon such enquiry to the Governor in Council, and the Governor in Council may make such order in the premises as may be deemed just and proper, and if the Governor in Council should by such order declare a forfeiture of the rights of the company offending the rights so ordered or declared to be forfeited, shall cease and determine.

19. When a ditch, flume or other contrivance for carrying water is not of sufficient capacity to carry the quantity of water recorded by its owner, his exclusive right shall be limited to the quantity which such ditch, flume or other contrivance is capable of carrying.

SURPLUS WATER MAY BE CLAIMED BY OTHERS.

19. Any company having the right to the use of water for irrigation or other purposes shall dispose of any surplus water to any person applying therefor for irrigation purposes and tendering payment for twelve months in advance at the regular prices. Persons so applying shall pay an amount equal to the cost and expense of the works required to convey the surplus water to them, or shall themselves construct such works. Until this is done the delivery of surplus water need not be made. When the necessary works have been constructed and the payment or tender herein provided for has been made the applicant shall be entitled to the use of so much of the surplus water as such works shall have the capacity to carry. But nothing herein shall be construed to give to any person acquiring the right to use surplus water any right to waste or sell or dispose of the same after being used by him, or shall prevent the original owners from retaking, selling or disposing of the same in the usual or customary manner after it has been so used as aforesaid.

20. Every person who without authority takes or diverts any water from any river, stream, lake or other waters or from any works authorized under this act, or who takes or diverts therefrom any greater quantity of water than he is entitled is guilty of an offence and liable upon summary conviction to a fine not exceeding $5 per day for each unit or fraction of a unit of water improperly diverted or to imprisonment not exceeding days or to both, and upon indictment to a fine not exceeding $5 per day for each unit or fraction of a unit of water improperly diverted or to imprisonment for a term not exceeding days or to both.

COMPANIES MUST NOT DISCRIMINATE IN PRICES OF WATER.

21. No company undertaking to sell water conveyed by their works shall, subsequent to the first four years after the construction of such works as an necessary to convey the water to the user discriminate between the users of such water regarding the price of the same. If from any cause the whole amount of water agreed to be supplied by a company be not available then each user shall have furnished to him by the company so much water as shall bear to the available water the same proportion as his usual supply bears to the whole amount agreed to be furnished. Any company violating these provisions is guilty of an offence against this act and liable upon summary conviction before two justices of the peace to a fine not exceeding one thousand dollars for each and every such offence or to imprisonment for a period not exceeding days or to both.

UNIT OF MEASUREMENT.

22. Under this Act the discharge of one cubic foot of water per second shall be the unit of measurement.

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ANNUAL RETURN BY COMPANIES TO GOVERNMENT.

23. Companies constructing and operating works under this Act shall on or before the thirty-first day of January in each and every year make a return to the Governor in Council attested by the oath of its President and Secretary, for the year ending the thirty-first day of December preceding, showing :—

Amount expended on construction.
Amount expended on repairs.
Amount received from shareholders.
Amount of bonds issued.
Amount received for water supplied for irrigation.
Amount received from other sources.
Amount of dividend declared and paid.
Amount of capital stock authorized.
Amount of capital stock subscribed.
Amount of capital stock paid up to date.
Amount of bonded indebtedness.
Amount bonds sold for.
Rate of interest bonds bear.
Amount of indebtedness other than bonds and rate of interest the same is bearing.
Cost of management.
Statement of works, extent and character.
Number of miles of canals, ditches, etc.
Number of users.
Number of acres actually under irrigation.
Number of acres of irrigable land in the system.
Names of officers or employees with salary paid to each.
Proposed extensions during ensuing years and acreage to be covered thereby.
With such other data as the Governor in Council may see fit to order. Attached to such annual return shall be a copy of by-laws of the company showing all amendments thereto during the year covered by said return.

GOVERNMENT MAY INTERVENE TO COMPEL COMPANIES TO CARRY OUT ENGAGEMENTS WITH CONSUMERS.

24. When complaint is made to the Minister or the agent by a consumer of water who has paid his rates and is verified by the oath of the complainant which evidence shall be corroborated by the oath of at least one witness that the company which engaged or is under obligation to supply him with water is failing to do so, or is failing to keep its ditches, flumes, and other works in proper condition, the Minister or some person or officer appointed by him for the purpose may make immediate inquiry and take all necessary steps to ascertain the truth of the complaint and if he considers the complaint established may order and direct that the company shall take forthwith such action as he considers necessary in order as far as possible to remove the cause of complaint. If the company fails to obey such order the Minister shall forthwith issue a certificate to that effect reciting all the facts, which certificate being presented to the Judge of the Supreme Court for the Judicial District within which such works lie, and the Judge is hereby empowered and shall hear and determine the matter in a summary manner and shall order the company to proceed with all despatch to take such measures as he considers necessary in the premises and refusal or neglect to obey any order made by a Judge under this section may be treated and punished as contempt of court and such other proceedings may be had and taken thereon as in the case of non compliance with any other mandatory order of the said court or a judge thereof.

COMPANIES MAY UNITE TO CONSTRUCT LARGER WORKS.

25. The Governor in Council may authorize two or more companies whose works lie contiguous to each other, ~~may~~ unite and form one company with a view to providing increased water supply and extending their works when he is satisfied that the holders of more than fifty per cent of the capital stock of each company are in favour of the union ; that users dependent upon the water supply will not be injured, and that the amalgamated companies have the necessary financial means for carrying out the proposed undertaking, the same class of data being furnished to the Governor in Council as is required to be furnished upon an application for authorization to construct works under this Act. Public notice of the authorization of the amalgamated companies and their proposed works shall be given in the manner prescribed in the case of an application under section ~~eleven~~ three

MINISTER OR HIS REPRESENTATIVES MAY CITE WITNESSES AND PAPERS.

26. The Minister or any one specially authorized by him may, when he deems necessary for the satisfactory carrying out of the provisions of this Act or the regulations to be framed under it, summon before him any person by subpœna, examine such person under oath, and compel the production of papers and writings, and for neglect to obey such summons or refusal to give evidence, or to produce the papers or writings demanded of him, the Minister or the person authorized may, by warrant under his hand, order the person in default to be imprisoned in the nearest common jail as for contempt of court, for a period not exceeding fourteen days.

AFFIDAVITS, ETC., BEFORE WHOM TAKEN.

27. All affidavits, oaths, solemn declarations or affirmations required to be taken under this Act or any regulations made thereunder, may be taken before any agent authorized under this Act, a Dominion lands agent or officer, or any persons specially authorized by the Minister to take the same, and the Minister may require any statement called for under this Act, or under any such regulation, to be verified by oath, affidavit, affirmation or declaration.

28. The Governor in Council is empowered to take such steps as he may deem necessary, at any time to secure a complete or partial survey of the sources of the water supply, in the North-west Territories, for irrigation and other purposes, with a careful estimate of the extent and location of irrigable lands, and of the site or sites suitable for ponds, basins and reservoirs for water storage. He may also take such steps as he may think necessary to protect the sources of water supply in the North-west Territories, and to prevent any act likely to diminish or injure said supply.

MAY ERECT WATER GAUGES, ETC.

29. The Governor in Council may from time to time authorize the establishing in the rivers, streams, lakes, and other waters of the North-west Territories, water gauges for computing the approximate volume and discharge of waters ; the placing of high water marks on rivers and streams, lakes and other waters when in flood ; the taking of steps for securing analyses of the water of rivers, streams, lakes and other waters, and the adopting of such other measures and proceedings for promoting the beneficial use of water, and for controlling and regulating the diversion and the application thereof as he may find necessary and expedient consistent with the provisions of this Act.

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30. The Governor in Council may, if in the public interest it is at any time deemed advisable so to do, take over the works of any company authorized under this Act. Provided that compensation shall be paid for such works at their value, such value to be ascertained by reference to the Exchequer Court or by arbitration, one arbitrator to be appointed by the Governor in Council, the second by the owner of the works to be taken over, and in case these cannot agree as to the third arbitrator, the Exchequer Court to appoint him, and that no person who at such date is using the water of said works, shall be deprived of the quantity of water he is entitled to, notwithstanding anything to the contrary expressed in this Act. Provided further that in any such case the Governor in Council shall have due regard to the claims to consideration of any persons who may have prepared or have in course of preparation any land to be supplied with water by the works taken over.

31. The by-laws and regulations of companies operating under this Act shall not contain anything contrary to the true intent and meaning of this Act, and shall be subject to revision and approval by the Governor in Council, and no tariff of charges for water furnished by any company shall come into operation until the same has been approved by the Governor in Council.

32. Any company authorized under this Act may issue bonds, debentures or other securities to the extent of double the amount of the subscribed capital, or quadruple the amount of the paid up capital which ever may be the smaller amount.

33. Any company authorized under this Act may acquire land by purchase or lease for improvement by irrigation and shall dispose thereof within ____ years after its acquisition otherwise such lands shall revert to the Crown.

34. Any company authorized under this Act may for the purposes of its undertaking construct or acquire an electric telegraph or telephone line or lines or anything of a similar nature, in its facility for transmission of messages by electricity or other means either through or along wires, rods, tubes or other appliances no matter how made or when constructed or erected.

REGULATIONS BY GOVERNOR IN COUNCIL.

35. The Governor in Council may—

Define the manner in which the measurement of water shall be arrived at.

Define the duty of water according to locality and soil.

Define the portion of the year during which water shall be supplied for irrigation.

Fix the license fee or charge to be paid by companies applying for registration of water rights or for authority to engage in irrigation or other works under this Act which fees or charges may be varied according to the capital employed or volume of water diverted.

Regulate the extent of diversion from rivers, streams, lakes or other waters.

Regulate the passage of logs, timber and other products of the forests through or over any dams or other works erected in rivers, streams, lakes and other water under the authority of this Act.

Regulate the publication of tariffs of water rates.

Prescribe forms to be used in proceedings under this Act.

Impose penalties for violations of any regulation made under authority of this Act which penalties shall in no case exceed a fine of two hundred dollars or three months imprisonment or both.

Regulate the manner in which water is to be supplied to persons entitled thereto, whether continuously or at stated intervals or under either or both systems.

Authorize some person or officer whose decision shall be final and without appeal to decide in cases of dispute as to what constitutes surplus water as mentioned in clauses 16, 17, 18 & 19 of this Act.

Make such orders as are deemed necessary, from time to time, to carry out the provisions of this Act according to their true intent, or to meet any cases which arise, and for which no provision is made in this Act; and further make any regulations which are considered necessary to give the provisions of this Act full effect; and from time to time, alter or revoke any orders or regulations made in respect of such provisions, and make others in their stead.

36. All regulations made by the Governor in Council under this Act shall be published for two successive weeks in the *Canada Gazette* and shall be laid before both houses of Parliament within the first fifteen days of the Session next after the date thereof.

37. The Govenor in Council is hereby authorized, if after careful and thorough inquiry he deems it advisable, to establish at some point in the North-west Territories an experimental irrigation farm, to be located conveniently near the districts which are most interested in the application of irrigation to agricultural lands; and to take such steps as may be required to demonstrate the value of such irrigation as applied to farming and grazing lands or to promoting the growth of trees, shrubs and plants in the Territories.

38. Any companies already formed to promote irrigation in the North-west Territories shall be subject to all provisions of this Act. excepting as far as bonding powers are concerned.

39 The Railway act as far as it is applicable and when not inconsistent with this act shall be considered as embraced in this act

(1) Whenever in the Railway act the expression "Railway" occurs it shall mean any works authorized to be constructed under this Act

of March 1894

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(*b.*) The expression "agent" means the Registrar of the Lands Registration District in which the land or water are situated.

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(*d.*) The expression "company" means any incorporated company, the objects and powers of which extend to or include the construction or operation of irrigation or other works under this Act or the carrying on thereunder of the business of the supply or the sale of water for irrigation or other purposes and includes also any person who has been authorized or has applied or is about to apply for authority to construct and operate such works or carry on such business.

(*e.*) The expression "duty of water" means the area of land that a unit of water will irrigate, which unit in this Act is a volume or amount equal to the discharge of one cubic foot of water per second.

3. The right to the use of all water at any time in any river, stream, watercourse, lake, creek, ravine, cañon, lagoon, swamp or marsh shall, for the purposes of this Act, in every case be deemed to be vested in the Crown until the contrary be proved by establishing any other right than that of the Crown to the use of such water, and save in the exercise of any legal right existing at the time of such diversion or appropriation no person shall divert or appropriate any water from any river, stream, watercourse, lake, creek, ravine, canon, lagoon, swamp or marsh excepting under the provisions of this Act or of some Act (*already or*) hereafter to be passed except in the services of the general right of all persons to use water for domestic purposes from any river, stream, watercourse, lake, creek, ravine, canon, lagoon, swamp or marsh vested in the Crown and to which there is access by a public road or reserve.

Does this abolish riparian rights in all future grants from the Crown?

4. After the passing of this Act no right to the permanent diversion or to the exclusive use of the water in any river, stream, watercourse, lake, creek, ravine, canon, lagoon, swamp or marsh shall be acquired by any riparian owner or any other person by length of use or otherwise than as the same may be acquired or conferred under the provisions of this Act or (*some existing or*) future Act of Parliament.

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5. Any person or company who holds water rights of a class similar to those which may be acquired under this Act or who with or without authority has constructed or is operating works for the utilization of water shall obtain a license or authorization under this Act within twelve months from the date of the passing of this Act. If such license or authorization is obtained within the time limited, the exercise of such rights may thereafter be continued and such works may be carried on under the provisions of this Act, otherwise the same shall be deemed to be unauthorized and unlawful.

6. Any water the property in which is vested in the Crown may be acquired, for domestic, irrigation, or other purposes, without regard to deterioration in quality or diminution in quantity, upon application therefor as hereinafter provided, and all applications made in accordance with the provisions of this Act shall have precedence, according to the date of filing the same with the agent, if for the same purpose but not otherwise. The purposes for which the right to water may be acquired are of three classes, namely : First, domestic purposes, which shall be taken to mean water for household and sanitary purposes and watering stock; second, irrigation purposes; and, third, other purposes.

Applications shall have precedence in this order irrespective of the date of filing, so that all applications for domestic purposes shall have precedence of all those for irrigation and other purposes, and all applications for irrigation purposes shall have precedence of all those for purposes within the

other purposes and includes also any person who has been authorized or has applied or is about to apply for authority to construct and operate such works or carry on such business.

(*e.*) The expression "duty of water" means the area of land that a unit of water will irrigate, which unit in this Act is a volume or amount equal to the discharge of one cubic foot of water per second.

3. The right to the use of all water at any time in any river, stream, watercourse, lake, creek, ravine, cañon, lagoon, swamp or marsh shall, for the purposes of this Act, in every case be deemed to be vested in the Crown until the contrary be proved by establishing any other right than that of the Crown to the use of such water, and save in the exercise of any legal right existing at the time of such diversion or appropriation no person shall divert or appropriate any water from any river, stream, watercourse, lake, creek, ravine, canon, lagoon, swamp or marsh excepting under the provisions of this Act or of some Act (*already or*) hereafter to be passed except in the services of the general right of all persons to use water for domestic purposes from any river, stream, watercourse, lake, creek, ravine, canon, lagoon, swamp or marsh vested in the Crown and to which there is access by a public road or reserve.

Does this abolish riparian rights

Does this abolish riparian rights in all future grants from the Crown?

4. After the passing of this Act no right to the permanent diversion or to the exclusive use of the water in any river, stream, watercourse, lake, creek, ravine, canon, lagoon, swamp or marsh shall be acquired by any riparian owner or any other person by length of use or otherwise than as the same may be acquired or conferred under the provisions of this Act or (*some existing or*) future Act of Parliament.

Does this abolish riparian rights in all future grants from the Crown?

5. Any person or company who holds water rights of a class similar to those which may be acquired under this Act or who with or without authority has constructed or is operating works for the utilization of water shall obtain a license or authorization under this Act within twelve months from the date of the passing of this Act. If such license or authorization is obtained within the time limited, the exercise of such rights may thereafter be continued and such works may be carried on under the provisions of this Act, otherwise the same shall be deemed to be unauthorized and unlawful.

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Applications shall have precedence in this order irrespective of the date of filing, so that all applications for domestic purposes shall have precedence of all those for irrigation and other purposes, and all applications for irrigation purposes shall have precedence of all those for purposes within the third class.

Provided that no application for any purpose shall be granted where the proposed use of the water would deprive any person owning lands adjoining the river, stream, lake or other source of supply of whatever water he requires for domestic purposes, and that when any person abandons or ceases to use any waters acquired by him for the purposes for which the same were acquired, or wastes the same, his right shall cease.

It is desired that this clause can cover municipal requirements

APPLICANT MUST FILE APPLICATION WITH GOVERNMENT.

7. Every applicant for a license or authorization under this Act shall file with the Minister and the agent, a memorial, setting forth his name, or, if the applicant be an incorporated company, the names of its shareholders and their places of residence, the date and manner of its incorporation, the names of its directors and officers and their places of residence, the extent of the company's subscribed capital and amount of paid up capital, the proposed method of raising further funds, if needed, and the purposes for which the company is incorporated. The memorial shall also state the name of any river, stream or other waters from which water is to be diverted, the extent of settlement on such waters, the probable quantity of water to be used and the point of diversion, the dams, basins, reservoirs, or other works proposed to be constructed for the purposes of the undertaking, and the locality of the same, as near as may be; the purpose to which the said water to be used is to be applied; the proposed rate to be charged for water; the probable number of consumers, the probable quantity of ~~water~~ land that may be beneficially irrigated, the character, description and value of such land in its present state including improvements and such other and further particulars as are needful to a full understanding of the scheme and as may be required by the Minister. And attached to the memorial shall be a general map or plan on a scale of not less than half a mile to one inch, showing the tract to be served by such water, the location of all rivers, streams and other waters therein, and the probable location of the proposed works. And also the position and area of all

shall be deemed to be unauthorized and unlawful.

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(*a.*) There shall also be filed with the memorial of all ditches or canals plans in detail of all bridges or culverts necessary for

[redacted]

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road or farm crossings also of flumes and headworks, this plan to be on a scale of not less than one inch equal to four feet.

(*b.*) In the case of all ditches or canals carrying more than 25 cubic feet of water per second in addition to the above information the applicants shall furnish the following maps or plans.

(1.) A longitudinal profile plan of ditch, showing the bottom of the same and proposed surface water line of same. The scale of this plan to be not less than, horizontal, one inch equal to 400 feet, vertical, one inch equal to 20 feet.

(2.) Cross section plans at a sufficient number of points to illustrate all the different forms the ditch when constructed will take, particularly on side hills or elsewhere when any portion of the water intended to be carried, is conveyed in fill, that is, one or both banks are made ground, or in case of when in cut, a horizontal line drawn from the bottom of the ditch will intersect the surface of the ground within double the number of feet that the bottom width of the ditch is at that point and the scale of the said cross section plans to be not less than one inch to twenty feet, for both horizontal and vertical scales.

(*c.*) Plans of any dams, cribs, embankments or other works proposed to obstruct any river, stream, lake or other waters or in order to create a pond, reservoir or basin of water anywhere or which may have the effect of impounding water, shall be prepared on a longitudinal scale of not less than one inch to one hundred feet and for cross sections, on a scale of not less than one inch equal to twenty feet and should show what material is intended to be used and how placed in said dam. Any timber, brush, stone or brick used in those works, shall be shown in detail on a plan not less than one inch equal to four feet.

(*d.*) Cross section maps or plans must also be filed with said memorial, showing the surface of the ground under such pond, reservoir or basin of water and also the surface of the water proposed to be held or impounded in the same; the scales of said maps or plans shall be not less; horizontal scale one inch equal to one hundred feet; vertical scale one inch equal to twenty feet, and a sufficient number of such lines of levels shown, so that the contents of said pond, reservoir or basins of water, can be accurately determined. If said maps or plans show the levels by contour lines, they shall be on a scale sufficiently large, so that said contour lines, shewing a vertical distance between them not exceeding one foot, can be accurately determined. The said maps or plans shall have sufficient information to show clearly the property likely to be affected by the creation of such ponds, reservoirs or basins of water and the manner in which affected and shall show in detail such other particulars as the Minister or Governor in Council may see fit to order.

(*e*) 7. No material deviation shall be made from the plans filed without permission and upon any question arising as to whether any deviation is material or otherwise the same shall be decided by the Minister or such officer as he may designate.

GOVERNMENT TO GIVE PUBLIC NOTICE OF APPLICATION AND RECEIVE OBJECTIONS.

8 8. The memorial and maps or plans shall be made in duplicate and signed by the applicant, or, if the applicant be a company, by the executive officers thereof, such of the maps or plans as are intended to show the land to be affected by the works being signed also by a Dominion Land Surveyor, and shall be filed one copy with the Minister and the second copy with the agent, and the same or a copy thereof shall be open for examination by the public at all times in the Department of the Interior at Ottawa, and at the office of the agent. Public notice of such filing shall forthwith be given in the *Canada Gazette* and in some newspaper published in the neighbourhood of the proposed works and to be named by the land agent, for a period of not less than thirty days nor more than ninety days as the Minister may determine, within which time any and all objections to the proposed works shall be forwarded to the Minister. The Minister shall consider all objections filed and report thereon to the Governor in Council who may thereupon by Order in Council authorize the construction of said works with such changes or variations as may be deemed necessary.

(2.) Any headworks, dams, cribs, embankments, flumes or other works authorized under this Act shall if the Minister so determines be constructed subject to inspection during construction from time to time and on completion and at any time thereafter, by an officer to be named by the Minister and the cost of such inspection or such portion thereof as the Minister may decide shall be borne by the company constructing such works.

(3.) Should any person residing on or owning land in the neighbourhood of such works apply to the Minister in writing desiring an inspection of any dam, cribs, embankments, flumes or other works authorized under this Act, the Minister may cause such inspection to be made and the cost thereof or such portion thereof as he may decide shall be borne by the company constructing such works.

twenty feet, and a sufficient number of such lines of levels shown, so that the contents of said pond, reservoir or basins of water, can be accurately determined. If said maps or plans show the levels by contour lines, they shall be on a scale sufficiently large, so that said contour lines, shewing a vertical distance between them not exceeding one foot, can be accurately determined. The said maps or plans shall have sufficient information to show clearly the property likely to be affected by the creation of such ponds, reservoirs or basins of water and the manner in which affected and shall show in detail such other particulars as the Minister or Governor in Council may see fit to order.

(e) **8.** No material deviation shall be made from the plans filed without permission and upon any question arising as to whether any deviation is material or otherwise the same shall be decided by the Minister or such officer as he may designate.

GOVERNMENT TO GIVE PUBLIC NOTICE OF APPLICATION AND RECEIVE OBJECTIONS.

8 **11.** The memorial and maps or plans shall be made in duplicate and signed by the applicant, or, if the applicant be a company, by the executive officers thereof, such of the maps or plans as are intended to show the land to be affected by the works being signed also by a Dominion Land Surveyor, and shall be filed one copy with the Minister and the second copy with the agent, and the same or a copy thereof shall be open for examination by the public at all times in the Department of the Interior at Ottawa, and at the office of the agent. Public notice of such filing shall forthwith be given in the *Canada Gazette* and in some newspaper published in the neighbourhood of the proposed works and to be named by the land agent, for a period of not less than thirty days nor more than ninety days as the Minister may determine, within which time any and all objections to the proposed works shall be forwarded to the Minister. The Minister shall consider all objections filed and report thereon to the Governor in Council who may thereupon by Order in Council authorize the construction of said works with such changes or variations as may be deemed necessary.

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(3.) Should any person residing on or owning land in the neighbourhood of such works apply to the Minister in writing desiring an inspection of any dams, cribs, embankments or other works in course of construction or at any time after the completion thereof the Minister may order an inspection thereof.

(4.) The Minister may require the applicant for inspection to make a deposit of such sum of money as the Minister may think necessary to pay the expenses of an inspection, and in case the application appears to him not to have been justified may cause the whole or part of the expenses to be paid out of such deposit.

(5.) In case the company is required by the Minister to pay the expenses of an inspection or any part thereof, such payment may be enforced as a debt due Her Majesty.

AUTHORIZATION TO BE PUBLISHED.

9. No work shall be commenced until the approval of the Governor in Council has been signified by public notice in the *Canada Gazette* and some newspaper published in the neighbourhood of the proposed works and named by the Minister, which notice shall set forth the particulars mentioned in the memorial, with such changes or variations as the Governor in Council may see fit to order, and shall specify a time within which such works shall be completed. Such notice shall be published in not less than two successive issues of such newspaper and shall be the authority for proceeding with the work. A copy of the notice shall also be recorded in a book specially kept for that purpose by the land agent in the land office for his district, and this record shall remain open for public inspection. If either the lands on which the water is to be applied or the waters to be used therefor, are not confined to the territory assigned to any one agent, a record must be filed with each agent in whose territory any part thereof is situate.

WHEN COMPANIES TO BEGIN AND FINISH WORK.

10. The operations of the company constructing a work so authorized shall begin not later than two months after the last publication of such last-mentioned notice, unless such two months expire between the first day of November and the first day of May following, in which case the time of commencement shall not be later than the first day of May following, and shall proceed continuously until sufficiently completed to supply water to all applicants within the area described in the authorization, provided there is sufficient water available for that purpose. The Minister or such officer as he may designate, shall be the sole arbiter as to whether the work is being prosecuted with sufficient vigour. Should any unforeseen disaster from flood or stress of weather intervene, to prevent the construction or completion of the works within the time limited, or for any other reasons which he deems sufficient, the Governor in Council may authorize a reasonable extension

determines be constructed subject to inspection during construction from time to time and on completion and at any time thereafter, by an officer to be named by the Minister and the cost of such inspection or such portion thereof as the Minister may decide shall be borne by the company constructing such works.

(3.) Should any person residing on or owning land in the neighbourhood of such works apply to the Minister in writing desiring an inspection of any dams, cribs, embankments or other works in course of construction or at any time after the completion thereof the Minister may order an inspection thereof.

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※ The applicant shall also notify by letter addressed to the nearest post Office all owners of land ~~bordering on same within one mile~~ which touches or is intersected by the River, Stream or other waters from which it is proposed ~~that~~ to divert the water who are recorded in same within one mile of the proposed point of diversion, that he has filed such memorial and when the same is so filed.

11. Every company and the officers and directors thereof shall afford to any inspecting officer such information as is within their knowledge and power in all matters inquired into by him, and shall submit to such inspecting officer all plans, specifications, drawings and documents relating to the construction, repair or state of repairs of the works or any portion thereof.

1. The production of instructions in writing signed by the Minister or his Deputy or the Secretary of the Department of the Interior, shall be sufficient evidence of the authority of such inspecting officer.

2. Every person who wilfully obtructs any inspecting officer in the execution of his duty is liable on summary conviction, to a penalty not exceeding dollars, or to imprisonment for a term not exceeding with or without hard labour or to both.

RIGHT-OF-WAY, DAMAGES, ETC.

12. A company contemplating or projecting any work which may be authorized under this Act, may enter into and upon any public or private lands, railway, streets, roads or lanes, to take levels, make surveys or do other necessary work in connection with the location of their proposed works through or across the same without making compensation therefor or being guilty of trespass, but all such preliminary work shall be disposed of with reasonable expedition and in a manner not to unduly interfere with the rights of the public or of the owners or occupiers of such property.

13. When the company and the owners or occupiers of private lands cannot agree as to the compensation for lands required for the construction or maintenance of any work authorized under this Act, or for damages to lands injured by such construction or maintenance, the matter shall be settled in the same manner as is provided for obtaining title and fixing compensation under *The Railway Act* so far as the same may be applicable, the Minister of the Interior and the Department of the Interior being substituted for the Minister of Railways and Canals and the Department of Railways and Canals respectively wherever in the provisions of the said Act the latter Minister and Department are mentioned or referred to. Provided that the Governor in Council may from time to time by regulations vary or modify the provisions of the said Act in this regard, so far as they apply to works under this Act, in such manner as experience may prove to be expedient.

In this section the expression "lands" includes real property, messuages, lands, tenements and hereditaments of any tenure.

14. All maps, plans and works of reference shewing the lands required by the company for any purpose in connection with the construction or maintenance, of its works must be signed by a duly qualified Dominion Land Surveyor.

15. The Minister or such officer as he may assignate in case of dispute shall be the sole arbiter as to the area of land which may be taken by the company without the consent of the owner for any purpose in the construction and maintenance of its works.

OFFENCES.

16. Every person who interrupts, molests or hinders in his work any engineer or Dominion Land Surveyor engaged in making surveys, or levels or in other operations in connection with any work authorized under this Act, is guilty of an offence, and liable on summary conviction to a penalty not exceeding twenty dollars or to imprisonment for a term not exceeding two months or both.

SURPLUS WATER TO BE TURNED BACK.

17. No company authorized to divert the water of any river, stream, lake or other waters shall divert more water than the quantity actually required for the purpose authorized, and any company or officer or employee of the same, so doing, shall be guilty of an offence punishable on summary conviction by a fine not exceeding $5.00 per day for each unit or fraction of a unit of water so diverted.

18. When any company abandons or ceases to use any waters acquired by it for the purposes for which the same were acquired or wastes the same, and any charge of such abandonment, wasting or ceasing to use water, is made to the Minister, the same may be enquired into by him or by any

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18. When any company abandons or ceases to use any waters acquired by it for the purposes for which the same were acquired or wastes the same, and any charge of such abandonment, wasting or ceasing to use water, is made to the Minister, the same may be enquired into by him or by any person or officer appointed by him for that purpose, and the Minister shall submit his report upon such enquiry to the Governor in Council, and the Governor in Council may make such order in the premises as may be deemed just and proper, and if the Governor in Council should by such order declare a forfeiture of the rights of the company offending the rights so ordered or declared to be forfeited, shall cease and determine.

19. When a ditch, flume or other contrivance for carrying water is not of sufficient capacity to carry the quantity of water recorded by its owner, his exclusive right shall be limited to the quantity which such ditch, flume or other contrivance is capable of carrying.

SURPLUS WATER MAY BE CLAIMED BY OTHERS.

19. Any company having the right to the use of water for irrigation or other purposes shall dispose of any surplus water to any person applying therefor for irrigation purposes and tendering payment for twelve months in advance at the regular prices. Persons so applying shall pay an amount equal to the cost and expense of the works required to convey the surplus water to them, or shall themselves construct such works. Until this is done the delivery of surplus water need not be made. When the necessary works have been constructed and the payment or tender herein provided for has been made the applicant shall be entitled to the use of so much of the surplus water as such works shall have the capacity to carry. But nothing herein shall be construed to give to any person acquiring the right to use surplus water any right to waste or sell or dispose of the same after being used by him, or shall prevent the original owners from retaking, selling or disposing of the same in the usual or customary manner after it has been so used as aforesaid.

20. Every person who without authority takes or diverts any water from any river, stream, lake or other waters or from any works authorized under this act, or who takes or diverts therefrom any greater quantity of water than he is entitled is guilty of an offence and liable upon summary conviction to a fine not exceeding $5 per day for each unit or fraction of a unit of water improperly diverted or to imprisonment not exceeding days or to both, and upon indictment to a fine not exceeding $5 per day for each unit or fraction of a unit of water improperly diverted or to imprisonment for a term not exceeding days or to both.

COMPANIES MUST NOT DISCRIMINATE IN PRICES OF WATER.

21. No company undertaking to sell water conveyed by their works shall, subsequent to the first four years after the construction of such works as an necessary to convey the water to the user discriminate between the users of such water regarding the price of the same. If from any cause the whole amount of water agreed to be supplied by a company be not available then each user shall have furnished to him by the company so much water as shall bear to the available water the same proportion as his usual supply bears to the whole amount agreed to be furnished. Any company violating these provisions is guilty of an offence against this act and liable upon summary conviction before two justices of the peace to a fine not exceeding one thousand dollars for each and every such offence or to imprisonment for a period not exceeding days or to both.

UNIT OF MEASUREMENT.

unit of water so diverted.

18. When any company abandons or ceases to use any waters acquired by it for the purposes for which the same were acquired or wastes the same, and any charge of such abandonment, wasting or ceasing to use water, is made to the Minister, the same may be enquired into by him or by any person or officer appointed by him for that purpose, and the Minister shall submit his report upon such enquiry to the Governor in Council, and the Governor in Council may make such order in the premises as may be deemed just and proper, and if the Governor in Council should by such order declare a forfeiture of the rights of the company offending the rights so ordered or declared to be forfeited, shall cease and determine.

19. When a ditch, flume or other contrivance for carrying water is not of sufficient capacity to carry the quantity of water recorded by its owner, his exclusive right shall be limited to the quantity which such ditch, flume or other contrivance is capable of carrying.

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20. Every person who without authority takes or diverts any water from any river, stream, lake or other waters or from any works authorized under this act, or who takes or diverts therefrom any greater quantity of water than he is entitled is guilty of an offence and liable upon summary conviction to a fine not exceeding $5 per day for each unit or fraction of a unit of water improperly diverted or to imprisonment not exceeding days or to both, and upon indictment to a fine not exceeding $5 per day for each unit or fraction of a unit of water improperly diverted or to imprisonment for a term not exceeding days or to both.

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21. No company undertaking to sell water conveyed by their works shall, subsequent to the first four years after the construction of such works as an necessary to convey the water to the user discriminate between the users of such water regarding the price of the same. If from any cause the whole amount of water agreed to be supplied by a company be not available then each user shall have furnished to him by the company so much water as shall bear to the available water the same proportion as his usual supply bears to the whole amount agreed to be furnished. Any company violating these provisions is guilty of an offence against this act and liable upon summary conviction before two justices of the peace to a fine not exceeding one thousand dollars for each and every such offence or to imprisonment for a period not exceeding days or to both.

UNIT OF MEASUREMENT.

22. Under this Act the discharge of one cubic foot of water per second shall be the unit of measurement.

UAA-1971-169-9/2/77/WE-(A5)

It was proposed that Sub Sec (c) of Sec 90, 51 Vic Chap 29, (Railway Act) should be inserted between Clauses 12 & 13 of this draft Act.

After looking over this I think Clause 12 might read as follows.

12 The Company may subject to the provisions of this act.

(a) enter into and upon any public or private lands, railway, streets, roads or lanes, to take levels, make surveys or do other necessary work in connection with the location of their proposed works through or across the same without making compensation therefor or being guilty of trespass, but all such preliminary work shall be disposed of with reasonable expedition and in a manner not to unduly interfere with the rights of the public or of the owners or occupiers of such property.

(b) Insert sub-clause (b) of Clause 90. for road Railway substitute works.

(c) Insert sub-clause (c) of Clause 90 for road Railway substitute works

(d) Make, carry or place the works across or upon the lands of any person on the located line of the works or within such distance thereof as the ~~Governor in Council~~ Minister may determine.

(e) Insert sub-clause (e) of Clause 90 for Railway and Railway Work substitute works.

(f) Insert sub-clause (f) Clause 90 for Railway substitute works. and for Commences substitute constructions

(g) Insert sub clause (g) of Clause 90

(h) Insert sub-clause (h) Clause 90 for railway substitute works.

(i) Insert sub clause (i) Clause 90 for railway substitute works

(j) Insert sub-clause (j) Clause 90

(k) ~~Insert~~ Erect and maintain all necessary and convenient buildings required for the construction, maintenance and operation of the works.

(l) Insert Clause 34 of the draft act.

(m) Construct and maintain all branch canals and distributaries, whether as feeders, distributaries or laterals and everything required in the construction, maintainance and operation of ~~the~~ Works and manage the same and for that purpose exercise all the powers privileges and authorities necessary therefor in as full and ample a manner as for the main ~~Canals~~ Works.

(n) Insert sub-clause (p) Clause 90

(o) Insert sub-clause (q) for railway substitute works.

ANNUAL RETURN BY COMPANIES TO GOVERNMENT.

23. Companies constructing and operating works under this Act shall on or before the thirty-first day of January in each and every year make a return to the Governor in Council attested by the oath of its President and Secretary, for the year ending the thirty-first day of December preceding, showing :—

Amount expended on construction.
Amount expended on repairs.
Amount received from shareholders.
Amount of bonds issued.
Amount received for water supplied for irrigation.
Amount received from other sources.
Amount of dividend declared and paid.
Amount of capital stock authorized.
Amount of capital stock subscribed.
Amount of capital stock paid up to date.
Amount of bonded indebtedness.
Amount bonds sold for.
Rate of interest bonds bear.
Amount of indebtedness other than bonds and rate of interest the same is bearing.
Cost of management.
Statement of works, extent and character.
Number of miles of canals, ditches, etc.
Number of users.
Number of acres actually under irrigation.
Number of acres of irrigable land in the system.
Names of officers or employees with salary paid to each.
Proposed extensions during ensuing years and acreage to be covered thereby.
With such other data as the Governor in Council may see fit to order. Attached to such annual return shall be a copy of by-laws of the company showing all amendments thereto during the year covered by said return.

GOVERNMENT MAY INTERVENE TO COMPEL COMPANIES TO CARRY OUT ENGAGEMENTS WITH CONSUMERS.

24. When complaint is made to the Minister or the agent by a consumer of water who has paid his rates and is verified by the oath of the complainant which evidence shall be corroborated by the oath of at least one witness that the company which engaged or is under obligation to supply him with water is failing to do so, or is failing to keep its ditches, flumes, and other works in proper condition, the Minister or some person or officer appointed by him for the purpose may make immediate inquiry and take all necessary steps to ascertain the truth of the complaint and if he considers the complaint established may order and direct that the company shall take forthwith such action as he considers necessary in order as far as possible to remove the cause of complaint. If the company fails to obey such order the Minister shall forthwith issue a certificate to that effect reciting all the facts, which certificate being presented to the Judge of the Supreme Court for the Judicial District within which such works lie, and the Judge is hereby empowered and shall hear and determine the matter in a summary manner and shall order the company to proceed with all despatch to take such measures as he considers necessary in the premises and refusal or neglect to obey any order made by a Judge under this section may be treated and punished as contempt of court and such other proceedings may be had and taken thereon as in the case of non compliance with any other mandatory order of the said court or a judge thereof.

COMPANIES MAY UNITE TO CONSTRUCT LARGER WORKS.

25. The Governor in Council may authorize two or more companies whose works lie contiguous to each other, ~~may~~ unite and form one company with a view to providing increased water supply and extending their works when he is satisfied that the holders of more than fifty per cent of the capital stock of each company are in favour of the union ; that users dependent upon the water supply will not be injured, and that the amalgamated companies have the necessary financial means for carrying out the proposed undertaking, the same class of data being furnished to the Governor in Council as is required to be furnished upon an application for authorization to construct works under this Act. Public notice of the authorization of the amalgamated companies and their proposed works shall be given in the manner prescribed in the case of an application under section ~~eleven.~~ nine

MINISTER OR HIS REPRESENTATIVES MAY CITE WITNESSES AND PAPERS.

by a consumer of water who has paid his rates and is verified by the oath of the complainant which evidence shall be corroborated by the oath of at least one witness that the company which engaged or is under obligation to supply him with water is failing to do so, or is failing to keep its ditches, flumes, and other works in proper condition, the Minister or some person or officer appointed by him for the purpose may make immediate inquiry and take all necessary steps to ascertain the truth of the complaint and if he considers the complaint established may order and direct that the company shall take forthwith such action as he considers necessary in order as far as possible to remove the cause of complaint. If the company fails to obey such order the Minister shall forthwith issue a certificate to that effect reciting all the facts, which certificate being presented to the Judge of the Supreme Court for the Judicial District within which such works lie, and the Judge is hereby empowered and shall hear and determine the matter in a summary manner and shall order the company to proceed with all despatch to take such measures as he considers necessary in the premises and refusal or neglect to obey any order made by a Judge under this section may be treated and punished as contempt of court and such other proceedings may be had and taken thereon as in the case of non compliance with any other mandatory order of the said court or a judge thereof.

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26. The Minister or any one specially authorized by him may, when he deems necessary for the satisfactory carrying out of the provisions of this Act or the regulations to be framed under it, summon before him any person by subpœna, examine such person under oath, and compel the production of papers and writings, and for neglect to obey such summons or refusal to give evidence, or to produce the papers or writings demanded of him, the Minister or the person authorized may, by warrant under his hand, order the person in default to be imprisoned in the nearest common jail as for contempt of court, for a period not exceeding fourteen days.

AFFIDAVITS, ETC., BEFORE WHOM TAKEN.

27. All affidavits, oaths, solemn declarations or affirmations required to be taken under this Act or any regulations made thereunder, may be taken before any agent authorized under this Act, a Dominion lands agent or officer, or any persons specially authorized by the Minister to take the same, and the Minister may require any statement called for under this Act, or under any such regulation, to be verified by oath, affidavit, affirmation or declaration.

28. The Governor in Council is empowered to take such steps as he may deem necessary, at any time to secure a complete or partial survey of the sources of the water supply, in the North-west Territories, for irrigation and other purposes, with a careful estimate of the extent and location of irrigable lands, and of the site or sites suitable for ponds, basins and reservoirs for water storage. He may also take such steps as he may think necessary to protect the sources of water supply in the North-west Territories, and to prevent any act likely to diminish or injure said supply.

MAY ERECT WATER GAUGES, ETC.

29. The Governor in Council may from time to time authorize the establishing in the rivers, streams, lakes, and other waters of the North-west Territories, water gauges for computing the approximate volume and discharge of waters ; the placing of high water marks on rivers and streams, lakes and other waters when in flood ; the taking of steps for securing analyses of the water of rivers, streams, lakes and other waters, and the adopting of such other measures and proceedings for promoting the beneficial use of water, and for controlling and regulating the diversion and the application thereof as he may find necessary and expedient consistent with the provisions of this Act.

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The returns required by this clause may be examined by the Treasurer of the Estate in the case of a private individual supplying water by himself alone.

30. The Governor in Council may, if in the public interest it is at any time deemed advisable so to do, take over the works of any company authorized under this Act. Provided that compensation shall be paid for such works at their value, such value to be ascertained by reference to the Exchequer Court or by arbitration, one arbitrator to be appointed by the Governor in Council, the second by the owner of the works to be taken over, and in case these cannot agree as to the third arbitrator, the Exchequer Court to appoint him, and that no person who at such date is using the water of said works, shall be deprived of the quantity of water he is entitled to, notwithstanding anything to the contrary expressed in this Act. Provided further that in any such case the Governor in Council shall have due regard to the claims to consideration of any persons who may have prepared or have in course of preparation any land to be supplied with water by the works taken over.

31. The by-laws and regulations of companies operating under this Act shall not contain anything contrary to the true intent and meaning of this Act, and shall be subject to revision and approval by the Governor in Council, and no tariff of charges for water furnished by any company shall come into operation until the same has been approved by the Governor in Council.

32. Any company authorized under this Act may issue bonds, debentures or other securities to the extent of double the amount of the subscribed capital, or quadruple the amount of the paid up capital which ever may be the smaller amount.

33. Any company authorized under this Act may acquire land by purchase or lease for improvement by irrigation and shall dispose thereof within _____ years after its acquisition otherwise such lands shall revert to the Crown.

34. Any company authorized under this Act may for the purposes of its undertaking construct or acquire an electric telegraph or telephone line or lines or anything of a similar nature, in its facility for transmission of messages by electricity or other means either through or along wires, rods, tubes or other appliances no matter how made or when constructed or erected.

REGULATIONS BY GOVERNOR IN COUNCIL.

35. The Governor in Council may—

Define the manner in which the measurement of water shall be arrived at.

Define the duty of water according to locality and soil.

Define the portion of the year during which water shall be supplied for irrigation.

Fix the license fee or charge to be paid by companies applying for registration of water rights or for authority to engage in irrigation or other works under this Act which fees or charges may be varied according to the capital employed or volume of water diverted.

Regulate the extent of diversion from rivers, streams, lakes or other waters.

Regulate the passage of logs, timber and other products of the forests through or over any dams or other works erected in rivers, streams, lakes and other water under the authority of this Act.

Regulate the publication of tariffs of water rates.

Prescribe forms to be used in proceedings under this Act.

Impose penalties for violations of any regulation made under authority of this Act which penalties shall in no case exceed a fine of two hundred dollars or three months imprisonment or both.

Regulate the manner in which water is to be supplied to persons entitled thereto, whether continuously or at stated intervals or under either or both systems.

Authorize some person or officer whose decision shall be final and without appeal to decide in cases of dispute as to what constitutes surplus water as mentioned in clauses ~~8~~ 17, 18 & 19 of this Act.

Make such orders as are deemed necessary, from time to time, to carry out the provisions of this Act according to their true intent, or to meet any cases which arise, and for which no provision is made in this Act; and further make any regulations which are considered necessary to give the provisions of this Act full effect; and from time to time, alter or revoke any orders or regulations made in respect of such provisions, and make others in their stead.

36. All regulations made by the Governor in Council under this Act shall be published for two successive weeks in the

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36. All regulations made by the Governor in Council under this Act shall be published for two successive weeks in the *Canada Gazette* and shall be laid before both houses of Parliament within the first fifteen days of the Session next after the date thereof.

37. The Govenor in Council is hereby authorized, if after careful and thorough inquiry he deems it advisable, to establish at some point in the North-west Territories an experimental irrigation farm, to be located conveniently near the districts which are most interested in the application of irrigation to agricultural lands; and to take such steps as may be required to demonstrate the value of such irrigation as applied to farming and grazing lands or to promoting the growth of trees, shrubs and plants in the Territories.

38. Any companies already formed to promote irrigation in the North-west Territories shall be subject to all the provisions of this Act. excepting as far as bonding powers are concerned.

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39 The Railway act as far as it is applicable and when not inconsistent with this act shall be construed as embraced in this act

(1) Wherever in The Railway act the expression "Railway" occurs it shall mean any works authorized & be constructed under this act.

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